

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Carter Salis	Team: Squad #4	CCRB Case #: 201902829	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 08/21/2018 5:00 PM	Location of Incident: 3rd Avenue between East 165th Street and Weiher Court	Precinct: 42	18 Mo. SOL 2/21/2020	EO SOL 2/21/2020	
Date/Time CV Reported Wed, 04/03/2019 4:00 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Tue, 04/02/2019 10:33 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Jose Santory	05457	941398	PSA 7
2. POM Pasquale Dethomas	11005	955873	PSA 7
3. SGT Michael Bletcher	3912	929740	PSA 7
4. POM John Olsen			

Officer(s)	Allegation	Investigator Recommendation
A.SGT Jose Santory	Abuse: Sergeant Jose Santory questioned § 87(2)(b)	
B.POM Pasquale Dethomas	Abuse: Police Officer Pasquale Dethomas questioned § 87(2)(b)	
C.POM Pasquale Dethomas	Abuse: Police Officer Pasquale Dethomas threatened to issue summons to § 87(2)(b)	
D.POM Pasquale Dethomas	Abuse: Police Officer Pasquale Dethomas questioned § 87(2)(b)	
E.POM Pasquale Dethomas	Abuse: Police Officer Pasquale Dethomas frisked § 87(2)(b)	
F.POM Pasquale Dethomas	Force: Police Officer Pasquale Dethomas used physical force against § 87(2)(b)	
G.SGT Michael Bletcher	Force: Sergeant Michael Bletcher used physical force against § 87(2)(b)	
H.SGT Jose Santory	Force: Sergeant Jose Santory used physical force against § 87(2)(b)	
I.SGT Jose Santory	Abuse: Sergeant Jose Santory threatened § 87(2)(b) with the use of force.	
J.SGT Jose Santory	Abuse: Sergeant Jose Santory threatened § 87(2)(b) with the use of force.	
K.SGT Jose Santory	Abuse: Sergeant Jose Santory threatened to arrest § 87(2)(b)	
L.SGT Jose Santory	Abuse: Sergeant Jose Santory searched the vehicle in which § 87(2)(b) was an occupant.	
M.POM John Olsen	Abuse: Police Officer John Olsen searched the vehicle in which § 87(2)(b) was an occupant.	

Officer(s)	Allegation	Investigator Recommendation
N.POM Pasquale Dethomas	Abuse: Police Officer Pasquale Dethomas searched the vehicle in which § 87(2)(b) was an occupant.	
O.SGT Jose Santory	Abuse: Sergeant Jose Santory threatened to arrest an individual.	
P.POM Pasquale Dethomas	Abuse: Police Officer Pasquale Dethomas threatened to issue summons to § 87(2)(b)	
Q.POM John Olsen	Abuse: Police Officer John Olsen threatened to arrest § 87(2)(b)	

### Case Summary

On March 1, 2019, § 87(2)(b) filed this complaint in person with the CCRB.

On August 1, 2019, at approximately 4:00 PM, § 87(2)(b) was double parked in front of 1077 Boston Road in the Bronx. § 87(2)(b) entered the car and § 87(2)(b) pulled out. Sgt. Michael Bletcher, Sgt. Jose Santory, PO Pasquale Dethomas, and PO John Olsen, all of Patrol Service Area 7, then stopped § 87(2)(b)'s car in front of 3310 3<sup>rd</sup> Avenue in the Bronx. Sgt. Santory asked § 87(2)(b) "How much marijuana do you have in the vehicle?" (**Allegation A: Abuse of Authority, § 87(2)(g)**). PO Dethomas then asked, "Did you smoke earlier today?" (**Allegation B: Abuse of Authority, § 87(2)(g)**). A crowd of individuals, one of whom the investigation identified as § 87(2)(b) gathered on the adjacent sidewalk. § 87(2)(b) walked towards the front of the car. PO Dethomas told § 87(2)(b) "I'm gonna give you a lawful order or do you want a summons" (**Allegation C: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) exited the car and PO Dethomas asked § 87(2)(b) "You got nothing on you that can hurt me, right?" (**Allegation D: Abuse of Authority, § 87(2)(g)**). PO Dethomas frisked § 87(2)(b) (**Allegation E: Abuse of Authority, § 87(2)(g)**).

Sgt. Santory and Sgt. Bletcher gave § 87(2)(b) multiple commands to exit his car and § 87(2)(b) did not exit his car. Sgt. Santory, Sgt. Bletcher, and PO Dethomas gripped § 87(2)(b)'s arms, and pulled him out of his car (**Allegation F-Allegation H: Force, § 87(2)(g)**). Sgt. Santory allegedly placed his Taser against the small of § 87(2)(b)'s back (**Allegation I: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) stepped into the street towards the officers and Sgt. Santory pointed his Taser towards § 87(2)(b) (**Allegation J: Abuse of Authority, § 87(2)(g)**). PO Dethomas handcuffed § 87(2)(b) again stepped into the street and Sgt. Santory told § 87(2)(b) "Sir, you step into the street again you're gonna be arrested" (**Allegation K: Abuse of Authority, § 87(2)(g)**).

Sgt. Santory searched § 87(2)(b)'s car (**Allegation L: Abuse of Authority, § 87(2)(g)**). PO Olsen searched § 87(2)(b)'s car (**Allegation M: Abuse of Authority, § 87(2)(g)**). PO Dethomas searched § 87(2)(b)'s car (**Allegation N: Abuse of Authority, § 87(2)(g)**). Sgt. Santory told an unidentified individual, "[I]f you create public alarm, you will be going to jail too." (**Allegation O: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) stepped into the street towards the officers and PO Dethomas told him, "Listen, if you don't step back on the sidewalk, you are going to get a summons" (**Allegation P: Abuse of Authority, § 87(2)(g)**). PO Olsen told § 87(2)(b) "If I tell you again, you're getting locked up. Get back on the sidewalk" (**Allegation Q: Abuse of Authority, § 87(2)(g)**). Officers left the scene with § 87(2)(b). § 87(2)(b) was arrested for § 87(2)(b).

(BR 01).

The CCRB received ten Body Worn Camera videos related to this incident, which are located in Investigative Actions #59-68.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Sergeant Jose Santory questioned § 87(2)(b)**

**Allegation (B) Abuse of Authority: Police Officer Pasquale Dethomas questioned § 87(2)(b)**

**Allegation (D) Abuse of Authority: Police Officer Pasquale Dethomas questioned § 87(2)(b)**

**Allegation (E) Abuse of Authority: Police Officer Pasquale Dethomas frisked § 87(2)(b)**

**Allegation (L) Abuse of Authority: Sergeant Jose Santory searched the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (N) Abuse of Authority: Police Officer Pasquale Dethomas searched the vehicle in which § 87(2)(b) was an occupant.**

It is undisputed that officers stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants for double parking. § 87(2)(b) and § 87(2)(b) were removed from the car. Body-worn camera footage shows that Sgt. Santory and PO Dethomas questioned § 87(2)(b). PO Dethomas questioned and frisked § 87(2)(b) and Sgt. Santory and PO Dethomas searched § 87(2)(b)'s car.

§ 87(2)(b) (BR 02) initially denied being double-parked. However, in a subsequent phone statement (BR 03), he acknowledged being double parked. After being removed from his car, Sgt. Santory told § 87(2)(b) that there was marijuana residue throughout his car. § 87(2)(b) responded that he had not been smoking before the incident. During his CCRB interview, § 87(2)(b) stated that he had last smoked marijuana inside his car the evening before the incident and denied that his car smelled of marijuana. § 87(2)(b) was arrested. § 87(2)(b) was not arrested or issued a summons.

Attempts to contact § 87(2)(b) (BR 04) were unsuccessful.

Sgt. Santory's Body Worn Camera footage, video one of two (BR 07), at 00:30, shows Sgt. Santory standing at the front passenger side window of § 87(2)(b)'s car and asking § 87(2)(b) "How much marijuana do you have in the vehicle, cause I can smell it." § 87(2)(b) denies having marijuana in his car. PO Dethomas then asks, "Did you smoke earlier today?" § 87(2)(b) replies, "I don't smoke at all, sir."

In Sgt. Santory's Body Worn Camera footage, video two of two (BR 08), at 4:00, Sgt. Santory leans inside the driver seat of § 87(2)(b)'s car, points to a light green granular substance, and states, "You can see the marijuana residue on the seat...I can see the marijuana on the seat." § 87(2)(b) denies that there is marijuana in his car.

In PO Dethomas' Body Worn Camera footage, video one of three (BR 09), at 14:30, PO Dethomas opens the front passenger door of § 87(2)(b)'s car and instructs § 87(2)(b) "Keep your hands up where I can see them. You've got nothing on you that's gonna hurt me, right?" § 87(2)(b) exits the car and states, "No officer." PO Dethomas frisks the front of § 87(2)(b) shorts along the waistline.

In PO Olsen's Body Worn Camera footage, video one of two (BR 10), at 19:30, after officers have pulled § 87(2)(b) out of his car, PO Olsen enters the front passenger door of § 87(2)(b)'s car. PO Olsen shines his flashlight on the floor rug, opens the glove compartment, looks in the back seat of the car, and opens the center console. At 20:05, PO Dethomas enters the car from the front driver side door and says, "It really does smell very strong of marijuana." PO Olsen responds, "It reeks." PO Dethomas points at the driver seat and remarks, "There's marijuana right there."

According to a Property Clerk Invoice (BR 11) prepared by PO Dethomas, one small bud of vegetative marijuana, which field tested positive, and two small baggies with tobacco and marijuana residue, were recovered from § 87(2)(b)'s car. § 87(2)(b)'s Arrest Report (BR 01) states that § 87(2)(b) was charged with one count of § 87(2)(b). The Arrest Report states, "CAR STOP F/O 3310 3RD AVENUE STRONG SMELL OF MARIJUANA."

Sgt. Santory (**BR 12**) and PO Dethomas (**BR13**) testified that they smelled marijuana upon approaching § 87(2)(b)'s car and observed marijuana crumbs inside the car after § 87(2)(b) was removed from the car. After being shown his BWC camera footage of the incident, PO Dethomas recalled frisking § 87(2)(b) and asking § 87(2)(b) "You got nothing on you that can hurt me, right?" PO Dethomas frisked § 87(2)(b) because there was an odor of marijuana emanating from the car and to ensure that § 87(2)(b) had no weapons in his possession.

People v. Smith, 66 A.D.3d 514 (2009) (**BR 15**) states that the odor of marijuana emanating from a vehicle during a valid traffic stop provides officers with probable cause to search the vehicle's occupants as well as the vehicle itself.

§ 87(2)(g)

**Allegation (C) Abuse of Authority: Police Officer Pasquale Dethomas threatened to issue summons to § 87(2)(b)**

**Allegation (K) Abuse of Authority: Sergeant Jose Santory threatened to arrest § 87(2)(b)**

**Allegation (P) Abuse of Authority: Police Officer Pasquale Dethomas threatened to issue summons to § 87(2)(b)**

These allegations were captured on body-worn camera footage.

§ 87(2)(b) (**BR 02**) did not make these allegations and § 87(2)(b) (**BR 05**) was uncooperative with the investigation.

In PO Dethomas' Body Worn Camera footage, video one of three (**BR 09**), at 7:00, PO Dethomas is on the passenger side of § 87(2)(b)'s car. § 87(2)(b) steps into the street and walks towards the front of the car. PO Dethomas walks towards § 87(2)(b) and states, "Step back from the car. Stay on the sidewalk." § 87(2)(b) begins to speak and remains in the street. PO Dethomas interrupts, "I'm gonna give you a lawful order or do you want a summons." § 87(2)(b) steps back to the sidewalk. At 18:40 minutes, after officers have removed § 87(2)(b) from his car, § 87(2)(b) steps into the street and walks towards officers, who are standing with § 87(2)(b) and § 87(2)(b) at the rear of the car. PO Dethomas states, "Step back on the sidewalk now. Listen, if you don't step back on the sidewalk, you are going to get a summons." § 87(2)(b) steps back on to the sidewalk.

In Sgt. Santory's Body Worn Camera footage, video two of two (**BR 08**), at 2:30, as officers pull § 87(2)(b) out of his car, § 87(2)(b) walks to the front driver side of § 87(2)(b)'s car. Sgt. Santory gives § 87(2)(b) approximately six orders to step back and get out of the street. At 3:25, § 87(2)(b) states, § 87(2)(b) "come get my phone." § 87(2)(b) walks towards Sgt. Santory and § 87(2)(b). Sgt. Santory states, "Step back. Sir, you step into the street again you're gonna be arrested." § 87(2)(b) walks to the sidewalk.

In PO Olsen's Body Worn Camera footage, video one of two (**BR 10**), at 18:35, PO Dethomas is heard, outside the frame of PO Olsen's Body Worn Camera, telling § 87(2)(b) to

step on to the sidewalk. PO Olsen then states, “If I tell you again, you’re getting locked up. Get back on the sidewalk.”

Sgt. Santory testified (**BR 12**) that he told the group of individuals on the sidewalk, including § 87(2)(b) that if they stepped into the street, they would be arrested. Sgt. Santory explained that, by stepping into the street, the individuals in the crowd were stepping into the officers’ zone of safety and could have been arrested for obstruction of governmental administration or disorderly conduct.

PO Dethomas (**BR 13**) testified that, while officers were interacting with § 87(2)(b) and § 87(2)(b) a small crowd formed on the adjacent sidewalk. Individuals from the crowd yelled and stepped into the street towards officers. PO Dethomas told § 87(2)(b) that if he stepped into the street he would be issued a summons for disorderly conduct because he was creating hazardous conditions for the officers.

New York Penal Law § 240.20 (**BR 16**) states a person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly create a risk thereof, he congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse or he creates a hazardous condition by any act which serves no legitimate purpose.

New York Penal Law § 195.05 (**BR 27**) states a person is guilty of obstructing governmental administration when he intentionally obstructs, impairs, or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function.

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Allegation (F) Force: Sergeant Jose Santory used physical force against § 87(2)(b)**

**Allegation (G) Force: Sergeant Michael Bletcher used physical force against § 87(2)(b)**

**Allegation (H) Force: Police Officer Pasquale Dethomas used physical force against § 87(2)(b)**

§ 87(2)(b)

**Allegation (I) Abuse of Authority: Sergeant Jose Santory threatened § 87(2)(b) with the use of force.**

**Allegation (J) Abuse of Authority: Sergeant Jose Santory threatened § 87(2)(b) with the use of force.**

It is undisputed that officers issued § 87(2)(b) multiple commands to exit his car, that he did not comply with these instructions, and that he was physically removed from the car.

§ 87(2)(b) (**BR 02**) testified that after refusing to exit his car, PO Olsen and PO Dethomas grabbed his left bicep and pulled him out of his car and placed him, chest first, against the ground. § 87(2)(b) stepped into the street and stood approximately five feet from Sgt. Santory. Sgt. Santory placed his Taser against the small of § 87(2)(b)’s back and then pointed it at § 87(2)(b).

In a video posted by § 87(2)(b) (**BR 06**), between 00:10 and 00:35, § 87(2)(b) stands at the front driver side of § 87(2)(b)’s car, approximately ten feet from Sgt. Santory. § 87(2)(b) asks, “Why y’all dragging him out of his

car?” At 00:25, Sgt. Santory raises his left arm, points his Taser towards § 87(2)(b) s torso for approximately two seconds, and then lowers his Taser.

In Sgt. Santory’s Body Worn Camera footage, video two of two (**BR 08**), between 0:30 and 2:10, Sgt. Santory and Sgt. Bletcher give § 87(2)(b) approximately ten orders to exit his car and each time § 87(2)(b) refuses to exit his car. At 2:43, Sgt. Santory, Sgt. Bletcher, and PO Dethomas grip § 87(2)(b) s arms and pull him out of his car.

In PO Olsen’s Body Worn Camera footage, video one of two (**BR 10**), at 15:45, Sgt. Santory holds on to § 87(2)(b) s left arm and § 87(2)(b) is seen though the rear window of the car. Sgt. Santory pulls his outstretched arms towards his torso in a tugging motion and § 87(2)(b) s body moves towards Sgt. Santory’s body. § 87(2)(b) then leans his body towards the car’s center console. § 87(2)(b) steps to the front driver side of § 87(2)(b) s car and Sgt. Santory unholsters his Taser with his left hand. PO Dethomas walks to the front driver side door and reaches his arms inside § 87(2)(b) s car. At 15:55 minutes, PO Dethomas reaches his right arm under § 87(2)(b) s right arm, Sgt. Bletcher grips § 87(2)(b) s left arm with both hands, and Sgt. Santory grips § 87(2)(b) s forearm with his right arm. Sgt. Bletcher, Sgt. Santory, and PO Dethomas pull § 87(2)(b) from his vehicle and lower him so that he is prone on the ground. At 16:00 minutes, § 87(2)(b) walks towards the officers and Sgt. Santory raises his left arm and points his Taser at § 87(2)(b) PO Dethomas handcuffs § 87(2)(b) From the time that Sgt. Santory unholsters his Taser to the time that § 87(2)(b) § 87(2)(b) is handcuffed, Sgt. Santory does not place his Taser against § 87(2)(b) s body.

Sgt. Santory (**BR 12**) testified that he gave § 87(2)(b) multiple commands to exit his car and each time § 87(2)(b) refused to do so. Sgt. Santory gripped § 87(2)(b) s arm and pulled him out of his car. § 87(2)(b) tensed his muscles and pulled his arms away from officers. Sgt. Santory denied ever placing his Taser against § 87(2)(b) s back. While Sgt. Santory pulled § 87(2)(b) out of his car, § 87(2)(b) crossed in front of § 87(2)(b) s car and walked towards the officers. Sgt. Santory told § 87(2)(b) approximately five times, “Get out of the street. Don’t get any closer.” § 87(2)(b) did not move out of the street. Sgt. Santory unholstered his Taser and pointed it at § 87(2)(b) to prevent him from proceeding towards the officers and interfering with their attempt to gain § 87(2)(b) s compliance. Sgt. Santory did not cycle or remove the safety on his Taser. Sgt. Santory explained that § 87(2)(b) could have been arrested for interfering with officers’ attempts to gain § 87(2)(b) s compliance.

PO Dethomas (**BR 13**) and Sgt. Bletcher (**BR 14**) each testified that he gripped on to § 87(2)(b) and pulled him out of his car. PO Dethomas’ and Sgt. Bletcher’s statements were consistent with Sgt. Santory’s statement regarding how and why § 87(2)(b) was removed from his car.

Patrol Guide Procedure 221-02 (**BR 17**) states that, when a member of the service must gain compliance, control, or custody of an uncooperative subject, the member should apply no more than the reasonable force necessary to gain control. The Patrol Guide defines active resisting as physically evasive movements to defeat an officer’s attempt to control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into custody. In all circumstances, the application of force must be reasonable under the present circumstances.

Patrol Guide Procedure 221-08 (**BR 26**) states that a Conducted Electrical Weapon should only be used against person who are actively resisting, exhibiting active aggression or to prevent individuals from physically injuring themselves or other persons actually present. Active resisting includes physically evasive movements to defeat a member of the service’s attempt to

obtain or retain control or custody, including bracing, tensing, pushing, or verbally signaling an intention to do so. Active aggression includes a threat or overt act of an assault, coupled with the present ability to carry out the threat or assault, which reasonably indicated that an assault or injury to any person is imminent. Passive resistance includes minimal physical action, such as resisting a lawful command, to prevent a member of service from performing their lawful duty.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (O) Abuse of Authority: Sergeant Jose Santory threatened to arrest**

§ 87(2)(b)

§ 87(2)(b) did not make this allegation. This allegation was captured on Body Worn Camera footage.

In Sgt. Santory's Body Worn Camera footage, video two of two (**BR 08**), at 7:35, after § 87(2)(b) had been removed from his car, Sgt. Santory approaches § 87(2)(b) and two unidentified males on the sidewalk and tells § 87(2)(b) "I just want to let you know that, if you create public alarm, you will be going to jail too. You understand, sir?" It is unclear from the perspective of the Body Worn Camera footage who this statement was directed towards. At 11:00, officers leave the scene with § 87(2)(b) in custody.

Sgt. Santory testified (**BR 12**) that he told the individuals in the crowd that they would be arrested if they caused public alarm. Sgt. Santory explained that, because the individuals in the crowd were stepping into the street and attempting to interfere with the officers' actions, an uninvolved civilian may be alarmed.

§ 87(2)(g)

**Allegation (M) Abuse of Authority: Police Officer John Olsen searched the vehicle in which § 87(2)(b) was an occupant.**



**Allegation (Q) Abuse of Authority: Police Officer John Olsen threatened to arrest** § 87(2)(b)

§ 87(2)(b)  
The Department Advocates Office confirmed that PO Olsen was terminated from the NYPD on January 5, 2019 (BR 18). § 87(2)(g)

**Civilian and Officer CCRB Histories**

- § 87(2)(b)  
§ 87(2)(b)  
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§ 87(2)(b)  
§ 87(2)(b)
- § 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 23).
- Sergeant Jose Santory has been a member-of-service for thirteen years and has been a subject in eleven other CCRB complaints and forty other allegations, two of which were substantiated.
  - 201116462 involved a substantiated allegation of offensive language (gender) against Sgt. Santory. The Board recommended Instructions and the NYPD declined to impose discipline.
  - 201504669 involved a substantiated allegation of frisk against Sgt. Santory. The Board recommended Command Discipline A and the NYPD imposed Command Discipline A.
  - 201802829 involved allegations of physical force, question, stop, and threat of force. The case is open and the investigation is ongoing.
  - § 87(2)(g)
- Police Officer Pasquale Dethomas has been a member-of-service for five years and has been a subject in two other CCRB complaints and four other allegations, two of which were substantiated.
  - 201706642 involved substantiated allegations of stop against PO Dethomas. The Board recommended Command Discipline B and the NYPD imposed Formalized Training.
  - 201902967 involved an allegation of threat of arrest. The case is open and the investigation is ongoing.
  - § 87(2)(g)
- Sergeant Michael Bletcher has been a member-of-service for seventeen years and has been a subject in seven other complaints and fourteen other allegations, two of which were substantiated.
  - 201608992 involved substantiated allegations of refusal to provide name/shield number and stop against Sgt. Bletcher. The Board recommended Command Discipline A and the NYPD imposed Command Discipline A.
  - § 87(2)(g)

**Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- As of June 17, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (**BR 20**).
- § 87(2)(b) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- According to the Office of Court Administration (OCA), § 87(2)(b) [REDACTED] has no history of convictions in New York City (**BR 24**).
- According to the Office of Court Administration (OCA), § 87(2)(b) [REDACTED] has no history of convictions in New York City (**BR 25**).

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Squad No.: Squad 4

Investigator:	_____	Investigator Carter Salis	12/03/2019
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date